

REMARKSAllowable Claims

In accordance with the telephone interview with the Examiner on July 30, 2004, it is understood that while the June 29, 2004 Office Action indicated that Claims 5, 6, 15-17 and 27-37 were objected to as being dependent claims but otherwise allowable, in fact Claims 30-37 were allowed, there being no rejections of these claims. Hence in fact only Claims 5, 6, 15-17 and 27-29 were objected to as being dependent upon a rejected base claim but otherwise allowable.

Therefore, in accordance with that understanding, Applicant added here new independent Claims 45, 46 and 47; Claim 45 reciting the combination of original Claims 1 and 5; Claim 46 reciting the combination of original Claims 7 and 15; and Claim 47 reciting the combination of original Claims 18 and 27. Hence new Claims 45-47 are allowable at least for the reasons indicated by the Examiner.

Rejections

As to the remaining claims, Claims 1, 3-4, 7, 13-14 and 18-25 stand rejected under section 102 as anticipated by Seki.

Claims 18 and 26 stand rejected under section 102 as anticipated by Rando.

Claim 2 stands rejected under section 103 as unpatentable over Seki.

Claims 7-14 and 38-44 stand rejected under Section 103 as unpatentable over Dong in view of Wu.

First, note that in general (except as pointed out below) the present amendments to the present claims are not for reasons of patentability and are not to overcome a rejection but are to clarify and improve grammar of the claims. See the amendments to Claims 1, 4, 5, 7, 8, 9, 10, 13, 19, 20, and allowed Claims 30, 32, 35 and 37. These are amendments as to form and to provide

clarification and to make the claims more easily understood rather than in response to any patentability rejection and are not intended to narrow the scope of the claims so amended. Note the deletion from allowed Claim 37 of “square”, “defining a cube”, “wherein the aperture includes a lens”, as not being necessary to clarity of the Claim. Also, Claim 37, line 7 is amended as to the sides.

Rejections – Seki §102

The Examiner rejected Claims 1, 3-4, 7, 13-14 and 18-25 under section 102 citing Seki. The Examiner identified Seki as having a “. . .one or more light emitting modules (9, 28) detachable from the leveling platform and having at least two sides for parallel positioning on the reference surface. . .Seki further discloses a housing (2) having a plurality of sides and a plurality of apertures for receiving said light emitting modules. . .” Thus the Examiner identifies the modules in Seki as being structures 9 and 28. Structures 28 are shown in Fig. 1 as the turrets projecting from the housing 2. Structure 9z is shown in Fig. 2 as being a structure inside one of the turrets. Thus Seki has a single housing 2 with multiple turrets 28 extending from its sides. There is no turret on the bottom side of housing 2 since that bottom side rests on the positional adjustment unit 4 which the Examiner identifies as a leveling platform. There is, of course, no suggestion in Seki of having a plurality of such housings each of which fits against another. The structure of Seki with the turrets 28 projecting from each side would prevent butting one such housing 2 against another using the sides of housing 2 as the abutting surfaces.

Hence it is respectfully submitted that Claim 1, as originally examined and also as amended herein, distinguishes over Seki at least because the concluding cause of Claim 1 recites “each of the modules has at least two sides that allows substantially parallel positioning on the reference surface and allows substantially parallel positioning against a side of another light emitting module;”. (Note that the term “a side of” was added here for clarification.) It is clear that in Seki there is no “parallel positioning” against another module. If the Seki structures 28 are the “modules” as the Examiner says, there is no positioning against another module since the “modules” 28 are each on a different side of the housing 2. If the “module” is the housing 2 together with the

turrets 28, there still is no way to parallel position one such housing against another since the extending turrets 28 prevent the housing sides from butting up against one another in a

parallel fashion. Hence Seki neither meets Claim 1 nor makes Claim 1 obvious, and so Claim 1 distinguishes thereover.

Claims 2-6 dependent upon Claim 1 distinguish over Seki and over the other cited references for at least the same reason as does the base claim.

The Examiner also rejected independent Claim 7 as anticipated by Seki. However, the Examiner apparently did not notice that the third line from the bottom of Claim 7 recites (as amended) “a magnetic fastener on each of at least two of the sides;”. (The term “each of” was added here for clarification.) However, in Seki there is not even one magnetic fastener on any of the sides, and the Examiner did not indicate where such a magnetic fastener would be in Seki. It is clear therefore Seki does not meet Claim 7, which thereby distinguishes over Seki. The Examiner also did not indicate why it would be obvious to modify Seki to meet Claim 7.

Claims 8-17, dependent upon Claim 7, distinguish over Seki and the other references for at least the same reason as does base Claim 7. Note the amendments to Claims 10 and 11 to delete “fixedly.”

New Claim 47 is allowable as depending from base Claim 7. additionally new Claim 47 distinguishes over the references as reciting “the magnetic fastener includes one or more magnets rotatably mounted on the respective side.” See original Claim 37 directed to this rotating magnet feature which advantageously allows (at least on the module sides not having the laser aperture) an alignment of two modules without any need for a predetermined north-south axis polarity for installment (see Figs. 5A to 5C.) No such self alignment feature using rotating magnets as a fastener is shown in the references.

The Examiner also rejected Claim 18 as anticipated by Seki. The Examiner considers Seki to teach a housing having at least two reference sides thereby meeting in Claim 18. The

Examiner identified Seki Fig. 1 as having at least three reference sides. Hence it is understood that the Examiner considers each side of Seki's housing 2 having the extending turret structure 28 as being a "reference side". First, it is not seen why each of these sides in Seki is considered a "reference side". While the term "reference side" is not further defined in Claim 18, it is understood that this has its ordinary meaning. However, as pointed out above, only the bottom surface of housing 2 in Seki is what would be considered a reference side, e.g., a side which can accurately bear against another surface, in this case the top surface of support surface 4. Hence even without amendment, Claim 18 distinguishes over Seki.

Additionally, Claim 18 as amended here recites "a housing having two or more reference sides each adapted to be supported on a reference surface." (Emphasis added.) This clarifies the function of the reference sides. As Examiner understands, in accordance with the present invention, the module is e.g., a cube having six faces at least two of which can be a reference side and rest on the leveling platform or against a corresponding reference side of another such module. Hence the reference surface in this example is the leveling platform or a reference side of another module. The multi-reference side module in accordance with Claim 18 has advantages including that the module may be grouped with other similar modules on a single reference surface. See present Fig. 1 where the multiple modules fit against one another. See also present Fig. 4E showing a number of modules having reference sides resting against one another. No such combination of multiple modules in contact with one another and arranged parallel and abutting one another is possible with the Seki housing configuration having the extending turret structures 28.

Clearly no such structure as in Claim 18 is available or even suggested in Seki. The Seki housing 2, see Seki Fig. 1, has only one flat (bottom) side, the other sides having the extending turret structures 28 which would prevent proper contact with a reference surface. Hence Seki fails to meet Claim 18, which thereby distinguishes thereover. Seki, also fails to make Claim 18 obvious, so Claim 18 distinguishes thereover, as do all the dependent Claims 19-29.

The Examiner further rejected Claim 2 citing Seki under section 103. Claim 2 is dependent on Claim 1 and thereby distinguishes over the reference for at least the same reasons as base Claim 1.

Rejections – Rando §102

The Examiner also rejected Claims 18 and 26 under section 102 citing Rando.

This rejection of Claims 18 and 26 as anticipated by Rando is also traversed. Independent Claim 18 calls for “a housing having two or more reference sides.” Claim 26 is dependent upon Claim 18. In accordance with the present invention, each module has two or more reference sides and in one embodiment has e.g., four such reference sides. The term reference sides in this context refers to, in one embodiment, a side adapted to be supported on a platform or to bear against another surface for positioning purposes. However, Rando discloses no such structure. The Examiner did not give detail why Rando anticipates Claim 18. The Examiner points to Rando having a housing (48, 100) as being relevant to Claim 18. Rando laser instrument 48 is shown in Figs. 7, 7A, 7B, 7B and 10. In each of these figures instrument 48 is rectangular shape, sitting on its base and emitting light from an opposite face thereof. The Examiner also points to laser tool 100 in Rando Fig. 15 as having a level beam 102 emitted from one side thereof and a plumb beam 104 emitted from an orthogonal side thereof. Apparently the Examiner considers these to be the two reference surfaces each having a light beam emitted therefrom. It is understood that in Rando light beams 102 and 104 are at right angles to one another, given the Rando nomenclature of “level laser beam” 102 and “plumb laser beam” 104.

However, there is no suggestion in Rando that there is more than one reference surface in or on laser tool 100. It appears that device 100 always sits on its base in use, see Rando Fig. 16. In that sense, Rando has only one reference side, which is the base of the laser tool 100. There is no suggestion that the Rando laser tool 100 of Fig. 15 would be supported on any other of its surfaces or on any of the laser beam emitting sides. Thus, in this sense there is in Rando only one reference side, which is the base of the tool 100.

In a similar way laser instrument 48 in Rando Figs. 7 and 10 only has a single aperture for beam emission and there is no suggestion that it can be used in any orientation other than having the base sit on the support surface.

Hence it is not seen why Rando meets Claim 18 in the sense of having “two or more reference sides.” Further, Claim 18 as amended recites “a housing having two or more reference sides each adapted to be supported on a reference surface.” (Emphasis added.) Again, this is not met by Rando. There is no suggestion that there is more than one side of the tools 48 or 100 in Rando which can be supported on a reference surface. That Rando Fig. 15 shows two laser beams 102, 104 does not suggest that per se the tool 100 can be used in different orientations, but merely that in the single disclosed orientation the two laser beams are emitted. See the disclosure pertaining to the Rando Fig. 15 device, at Rando column 6 lines 7-34. That the “level laser beam” 102 and “plumb laser beam” 104 are explicitly so denoted suggests that the only orientation of the device is that shown in Fig. 15, since otherwise beams 102, 104 do not respectively define level and plumb. Hence, Claim 18 as amended further distinguishes over Rando and therefore is patentable thereover, as is dependent Claim 26.

Rejections – Dong and Wu §103

The Examiner rejected Claims 7-14 and 38-44 under section 103 as unpatentable over Dong in view of Wu. Examiner stated “Dong does not disclose the magnetic fasteners as stated in Claim 7-12.” The Examiner then cites Wu as having magnetic fastener 74 and states “Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add a magnetic fastener on the sides of the housing disclosed by Dong in order to securely connect the multiple housings during use so as to prevent from undesired movement and increase the accuracy of the predetermined direction of the light source.”

Wu teaches a magnetic fastener in the context of a device for emitting a datum laser line. However, it is respectfully submitted that the magnetic attachment in Wu is different than that in accordance with the present invention. See Wu exploded view Fig. 2 showing at the very bottom

the magnet 74. Wu states at column 3 beginning line 32 “. . . a magnet 74 mounted in a cavity 731 recessed in the bottom of the base 7 to be magnetically attracted on a flat horizontal or vertical surface made of ferrous material.” Hence (see Wu Fig. 1) clearly the magnet 74 is part of the base 7 of the cylindrical apparatus 1 and attaches the cylindrical device 1 to the supporting surface (not shown.) (The same assembled device shown in Wu Fig. 1 has the magnet 74 apparently hidden within the base 73.) As shown in Fig. 2 the magnet 74 attaches the telescope shaped light device 1 to the supporting surface via base 7.

This is different than the magnetic fastener in accordance with Claim 7. Claim 7 as originally filed called for “a magnetic fastener on at least two of the sides;”. This has been amended (for better clarity and to provide better antecedent basis for Claim 11) to recite “a magnetic fastener on each of at least two of the sides including the first side.” In either case, no such structure is shown or suggested by Wu where the magnet 74 is only used for attaching to the supporting surface. The device in Wu Fig. 1 does not have “sides” since the device has a cylindrical configuration. (If it does have a “side” it only has one “side” which is the side surface of the cylinder.) Clearly in Wu the magnet attaches the base 7 to the support surface. There is no suggestion in Wu to use a magnet in any other way. However, advantageously in accordance with Claim 7, see for instance present Fig. 3A, magnets are mounted to two or more surfaces of the cubical module 300, thus allowing both the base of the module to be magnetically attached to the support surface and also allowing another light emitting module to be attached to the side of the first light emitting module.

Wu does not suggest any such structure. The Examiner combines Wu with Dong in rejecting Claim 7. However, in Dong the only configuration of the various “rulers” in combination is in Dong Fig. 3 with three rulers stacked on top of each other and the light beams emitting from the sides of each ruler. In Dong, Fig. 3 each ruler has only a top/bottom surface to be attached to any other structure, either the base or a corresponding ruler. There is no suggestion of side by side connections. Hence the only attachment needed is on a top or bottom surface of each ruler to the ruler above or below. Hence even if one would apply the magnetic fastener teaching of Wu to Dong, there would be a magnet only on the top or bottom surface of each ruler. This still fails to meet Claim 7 which calls for “an aperture defined in a first of the sides, and a magnetic fastener on

each of at least two of the sides including the first side;”. Claim 7 thereby distinguishes thereover and has the accompanying advantage of allowing the modules not only to be stacked on top of another, but also to be nested side by side while each module also rests on the support surface. Hence Claim 7 distinguishes over even the combination of Dong and Wu and is allowable thereover, as are Claims 8-17 dependent thereon.

Hence the rejection of Claim 7 under both section 103 and under section 102 is traversed and it is requested that Claim 7 be allowed.

The Examiner also rejected Claims 38-44 under section 103 citing Dong and Wu. Claim 38 is an independent method claim. Claim 38 is amended to include the subject matter of dependent Claim 39, now cancelled. Hence Claim 38 is now directed to a method which, for instance, can be carried out by the apparatus of the type of Claim 7 where advantageously a first module is magnetically attached to the reference surface of the platform and then a second module is also magnetically attached to the platform, with its reference side positioned against the reference side of the first module. This reads on the multi-module configuration shown for instance in present Fig. 1 with the modules abutting against each other side by side and all modules sitting on the reference surface.

Of course even the combination of Dong and Wu fails to meet Claim 38 (for reasons similar to those as pointed out above in regard to Claim 7) since Dong only shows stacked up modules, with only the lowest module being on the support surface and the other modules stacked up thereon. Wu shows a magnetic fastener but only for attaching to the support surface and there is no possibility of module stacking in Wu, given the overall cylindrical configuration of the device.

Hence Claim 38 as amended here distinguishes over these references even in combination by reciting “attaching magnetically a reference side of a second light emitting module to the reference surface of the leveling platform; positioning another reference side of the first module and another reference side of the second module substantially parallel to and against each other.” No such method is even suggested by the combination of Dong and Wu and hence Claim 38

distinguishes thereover, as do dependent Claims 40-44 dependent. Claims 40-42 have their dependency amended here since they were earlier dependent upon cancelled Claim 39. Note the deletion of “magnetically” from Claims 43-44 in the “detaching” clauses. It is respectfully submitted that this word is not necessary to the clarity of these claims.

Hence, Claim 38 is allowable, as are all the claims dependent thereon, over the cited references.

New Claims 49 and following—Magnetic Fasteners

New independent Claim 49 is directed to the magnetic fastener feature similar to that of original Claim 37 where in one embodiment (see specification para. 50) two magnets rotate and also slide in a recess on the reference side. This promotes easy installation of two such modules together without the user having to predetermine the north-south polarity of the magnets. The movement of the pair of magnets in their recess thereby provides easy alignment of two such modules with one another, using the magnets to repel/attract the corresponding magnets in the other module. No such feature is disclosed in any of the references and hence Claim 49 distinguishes thereover. Claims 50-52 depend from Claim 49 and are allowable for at least the same reason as the base claim.

Conclusion

In view of the above, all pending claims in this application are believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and pass this application to issue with all Claims 1-38 and 40-52 allowed. If it is determined that a telephone interview would expedite prosecution, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that a time extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 549242002200. However, the Commissioner is not authorized at this time to charge the issue fee to the Deposit Account.

Dated: September 8, 2004

Respectfully submitted,

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